

BOARD OF ZONING APPEALS
AGENDA

Tuesday, September 21, 2021
6:00 p.m.

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. APPROVAL OF AGENDA**
- IV. APPROVAL OF MINUTES**
 - 1. July 16, 2019
- V. PUBLIC HEARING**
 - 1. V-1-21 Earl Mitchell
- VI. REGULAR SESSION**
 - 1. V-1-21 Earl Mitchell
- VII. OTHER MATTERS**
- VIII. ADJOURN**

STAFF REPORT

V-1- 21

OVERVIEW

OWNER	Earl Mitchell
TAX MAP	32-13
ACREAGE	58.75
LOCATION	Past the end of state maintenance of Mitchell Road
ELECTION DISTRICT	002
EXISTING ZONING	A-1
EXISTING USE	Agricultural/Forrestal
REQUEST	Relief from road frontage requirement for residential structures
ADJACENT ZONING	A-1
PREVIOUS ZONING ACTIVITY	V-1-02
CHARACTER OF AREA	Open land/woodland/low density residential
NATURAL CONDITIONS	250' ± Elevation. Not in floodplain. No wetlands present.
GREENSVILLE COUNTY COMPREHENSIVE PLAN (THE PLAN)	Rural Development area.

DIRECTOR'S COMMENTS

Variances address bulk or measurable aspects of land development such as the distance between a property line and a building or the amount of acreage in a parcel. The concept of a variance provides relief due to a hardship directly related to a measurable limitation imposed by the land. The hardship should be so severe that denial of the variance approximates confiscation of all reasonable use of the land. The request does not present that limitation.

Article 7 of the Virginia Planning Act found in the Code of Virginia, 15.1-465 authorizes Greenville County to regulate the Planning of Zoning Districts. Therefore, Greenville

County adopted its Zoning Ordinance on November 17, 1992 in order to regulate zoning.

This request seeks relief from the road frontage requirements for residential lots and structures found in Section 3-2 of the Greenville County Zoning Ordinance. The Greenville County Zoning Ordinance, Article 3-2 states:

3-2 Lot Requirements

3-2-1 Erection of Building

Every building hereafter erected shall be located on a lot or parcel of land which fronts on a public street or highway or on a dedicated public right-of-way, unless:

- (a) permitted elsewhere in this ordinance for townhouses and planned development; or,*
- (b) the lot or parcel was created by a plat which was approved by the Subdivision agent prior to April 8, 1997. (Amended September 15, 1997)*

3-2-2 Lot Required for Each Residential Use

Every residential building hereafter erected or structurally altered shall be located on a separate lot as defined herein and in no case shall there be more than one residential building on a lot used for dwelling purposes except for multiple-family dwellings not exceeding three (3) stories.

Any lot that legally existed prior to the adoption of this Ordinance may be used subject to the provisions and limitations of this Ordinance covering non-conforming lots of record.

3-2-3 Frontage on Public Street

Every lot established hereafter and used for single-family residential development shall have a frontage on a public street. As a general rule, when both side lot lines are parallel to each other and perpendicular to the street upon which the lot has its major frontage, the minimum frontage shall be the same as the width otherwise required at the building setback line, except: (a) in the case where side lot lines converge as they approach the street, such as when they are radial to the street's curvature, the lot frontage may be reduced to not less than 75 percent of the lot width at the building line; and (b) where a lot fronts on the turn-around of a cul-de-sac street, the frontage may be reduced to fifty (50) percent of the required width at the building line.

The applicant wishes to create a lot to be used for residential purposes for his daughter and son-in-law Mr. and Mrs. Charles Harris. In 2002 Mr. Mitchell filed for a variance in order to separate his existing house from the farm which required creating a lot with no public road frontage. That variance was approved by the Board of Zoning Appeals with conditions (ZMA-1-02). Condition #3 stated:

Future development upon the remaining 58.75 acres of the parent tract is restricted to one (1) residence, provided approval is obtained from the Health Department, and cannot be further subdivided with development of state maintained roadway.

As previously stated the applicant now wishes to create a lot so that his daughter and son-in-law can construct a new house and not tie up the remainder of the farm with the loan for the house.

The Greenville County Zoning Ordinance speaks to the appeal process in Section 17-2-2, Variances

...No variance shall be authorized by the board unless it finds:

- 1. That the strict application of this ordinance would produce undue hardship;*
- 2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and*
- 3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

As to whether or not an undue hardship exists could be debatable. The applicant could build the house on the entire 58.75 parent tract as permitted by V-1-02 that was approved by the Board of Zoning Appeals in 2002, and the property can also continue to be used for residential and agricultural purposes. Staff feels that this request is not contrary to the intended spirit or purpose of the Zoning Ordinance and such a need for a variance such as this one is not generally shared by other properties, nor is it detrimental to surrounding properties. Staff recommends a condition that will require a note on the plat of the remaining portion of the parent tract that indicates that the parent tract can only be used for forestall and agricultural purposes until the County's requirement for public road frontage is met. By adding the note to the plat it will ensure that no future residential development will occur until a state road is constructed to serve the property.

STAFF RECOMMENDATION

APPROVE WITH CONDITIONS

1. The variance is granted for the creation of a minimum 1.5 acre lot with no public road frontage from property identified as Tax Map 32, Parcel 13.
2. The septic tank, drainage system and potable water supply system as well as all out buildings must be located on the newly created parcel meeting all current setback requirements set forth by the Zoning Ordinance.

3. A note must be added to the new plat and signed by the owner that states the remainder of the 58.75 acre parent tract can only be used for agricultural and forestall purposes until the County's requirements of public road frontage are met.
4. Failure to abide by the above conditions will result in immediate revocation of the variance.



Linwood e. pope Jr.
Director of Planning

September 13, 2021



VARIANCE

FILE #: V-1-21 Earl Mitchell

Owner

Agent/Applicant (if different from owner)

Name: Earl Mitchell
Physical Address: 474 Mitchell Road
Emporia, Va. 23847
Mailing Address: " "
Telephone: 684-2673 594-2133

Tax Map/Parcel Number(s) Acreage(s) Election District(s)

1. " 58.75 Huntsford (002)
2. " " "

General Location: Property is located off of the dead end of Mitchell Road

Current Zoning/Proffers Existing Use Proposed Use

1. A-1, Agricultural Agricultural Residential
2. " " "

Request: request to cut off parcel of land for daughter's son-in-law to build house - SEE previous VARIANCE CASE

YOU MUST ATTACH A SURVEY PLAT OF PROPERTY DETAILING EXISTING STRUCTURES, PROPOSED STRUCTURES, SET BACK LINES, AND ENCROACHMENTS.

THE BOARD OF ZONING APPEALS MUST MAKE CERTAIN FINDINGS OF FACT. THEREFORE, PROVIDE A NARRATIVE STATEMENT IN RESPONSE TO EACH OF THE FOLLOWING FIVE (5) QUESTIONS:

1. Was the property acquired in good faith? 2. Is a hardship created by narrowness, shallowness, topographic conditions, size of the property, or shape of the property at the time of the effective date of the zoning ordinance (11/17/92) or use/development of the property immediately adjacent? 3. Does the above described hardship result from the actions of the owner(s)? 4. Would the strict application of the terms of the ordinance effectively prohibit or unreasonably restrict the use of the property? 5. Will the granting of the variance adversely impact adjacent properties?

Additional justification: applicant doesn't want to tie up the 58.75 acre farm with loan for daughter's house. Previous variance case allows for construction of one home on entire parcel. Remainder of 58.75 parcel will be continued to be used for agricultural purposes only.

The foregoing information is complete and correct to the best of my knowledge. I acknowledge that representatives of Greensville County may inspect the property subject to this application and my permission to do so is hereby given.

Earl Mitchell 8-17-2021
Signature Date
(Agents must provide written documentation of authority)

Received by: LIN Pope Date: 8-17-2021

Planning Commission Action: _____

Board of Zoning Appeals Action: _____



V-1-21

32-16B

775

32-17

32-16

32-13

635

32-16C

626

32-16A1

474

32-13A

32-14

MITCHELL

359

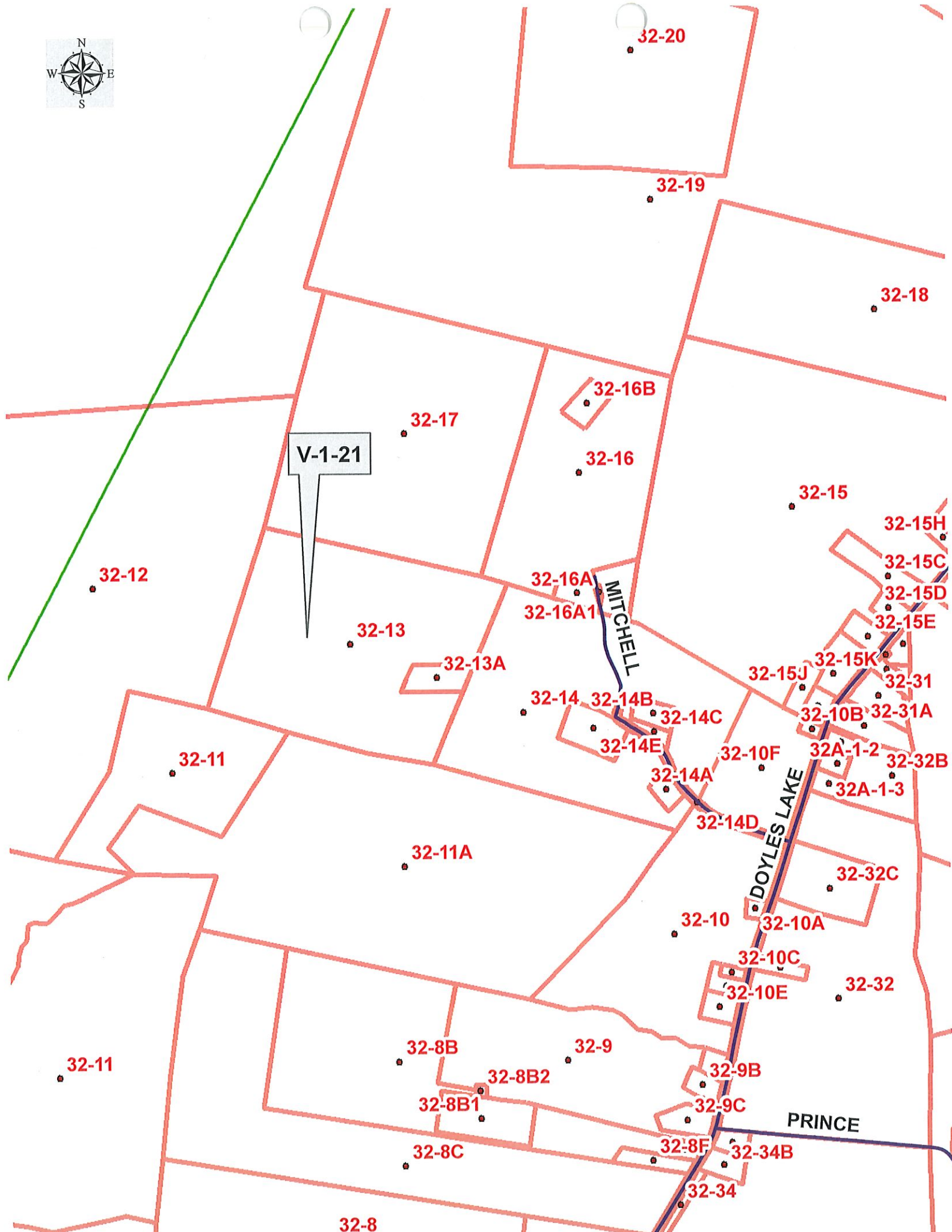
394

32-14E

194

32-11A

150

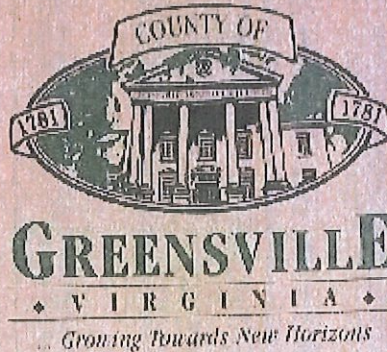


Tax Map #	Land owner
32-13A	MITCHELL EARL W OR PANSY S- LF EST AT DTH-CHARLES D & JESSICA M HARRIS 474 MITCHELL RD EMPORIA VA 23847
32-11, 32-12	ERIE FOREST INVESTMENTS LLC C/O FOREST INVESTMENT ASSOC P O BOX 1288 MOBILE AL 36633
32-11A	MITCHELL JAMES P 150 MITCHELL RD EMPORIA VA 23847
32-14	MITCHELL TONY L & LILLIE R MITCHELL LF ESTS-AT DTH- STEVEN P MITCHELL 359 MITCHELL RD EMPORIA VA 23847
32-16, 32-17	BUTLER FRANCES P 2271 DOYLES LAKE RD EMPORIA VA 23847

K. David Whittington
County Administrator

Richard E. Holloway
Executive County Administrator

Bruce D. Slattery, Jr.
County Attorney



Frederic B. Wiley
Chairman
Election District 4

Michael W. Beggs
Vice Chairman
Election District 2

James C. Vaughan
Election District 1

Margaret T. Lee, Ed.D.
Election District 3

February 22, 2002

Earl Mitchell
474 Mitchell Road
Emporia, Va. 23847

Re: V-1-02

Dear Mr. Mitchell:

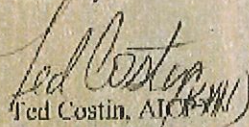
This is to inform you that during the Board of Zoning Appeals meeting held on February 20, 2002, your petition was approved subject to the following conditions:

1. The variance is granted for the creation of a minimum 2.0 acre lot with no public road frontage from property identified as Tax Map 32, Parcel 13.
2. The septic tank, drainage system, and potable water supply system as well as all out buildings must be located on the newly created parcel meeting all current setback requirements and shown on the survey of the subdivision.
3. Future development upon the remaining 58.75 acres of the parent tract is restricted to one (1) residence, provided approval is obtained from the Health Department, and can not be further subdivided without development of state maintained roadway.
4. Failure to abide by the above conditions will result in immediate revocation of the variance.

Be advised, any aggrieved party may file an appeal of this decision to the Circuit Court within thirty (30) days of the decision.

If you have any questions, please do not hesitate to contact my office at (434) 348-4232.

Sincerely,


Ted Costin, AICP
Planning Director

TC/ms



August 19, 2021

Charles Harris
2499 Doyles Lake Road
Emporia, VA 23847

RE: Site and Soil Evaluation For Septic System Repair;
Mitchell Road, Emporia, VA 23847
GPIN# 7329-06-4882, Tax Map: 32-13

At your request, I have evaluated the site and soil conditions on the above referenced parcel for the ability to install an onsite sewage disposal system. The site has been evaluated based upon current Virginia Department of Health Regulations.

My evaluation indicates that both site and soils are suitable for the installation of a "conventional" drainfield for up to a 5 Bedroom residence (750 gpd). Conveyance of effluent on this property will most likely be by gravity fall. A system of this type typically costs about \$7,000 to \$9,000 to install, but costs may vary.

This information does not serve as permission to construct a septic system. A formal permit design package can be prepared at your request and must be approved by the local health department prior to construction.

Koontz Bryant Johnson Williams appreciates the opportunity to serve as your soil consultant on this project. Please do not hesitate to contact me if you have any questions regarding this letter.

Sincerely,

Shannon D. Hill, AOSE/LPSS
Onsite Soil Evaluator/Professional Soil Scientist



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
23116 Meherin Road
COURTLAND, VIRGINIA 23837

September 13, 2021

Lin Pope, Planning Director
Greensville County Planning Department
1781 Greensville County Circle
Emporia, VA 23847

**RE: V-1-21 Earl Mitchell
474 Mitchell Road
Emporia, VA 23847
Greensville County**

The Residency has completed its review of the submitted variance dated August 17, 2021 and received by the VDOT Land Development Office on September 9, 2021 to allow a single family home at the end of Mitchell Road. There appear to be no impacts to the State maintained right of way with this variance application. A Land Use Permit will be required prior to construction of any work within State maintained right of way limits or easements, if any. Additional information about Land Use Permitting as well as the required forms can be found on the VDOT website at:

<http://www.virginiadot.org/business/bu-landUsePermits.asp>

If you have any questions, please contact me at (757) 346-3084 or Jason.fowler@vdot.virginia.gov.

Sincerely,

Jason C. Fowler

Jason C. Fowler
Land Use Engineer
Virginia Department of Transportation
Franklin Residency